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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ARTHUR D. CUMMINGS AND DONNA
CUMMINGS

Plaintiffs,

vs.

UNITED STATES OF AMERICA
Defendants.

CIVIL ACTION NO.:

Civil Action

COMPLAINT, JURY DEMAND AND
DESIGNATION OF TRIAL COUNSEL

Plaintiffs, ARTHUR D. CUMMINGS and DONNA CUMMINGS, by way of
complaint say:

RECITALS

1. Plaintiff filed a Federal Tort Notice of Claim pursuant
to 28 U.S.C. §2675 on January 19, 2017.

2. On July 26, 2017, the Office of the United States Post
Office served its letter denying plaintiff's claim.

3. This lawsuit is filed within six (6) months of receipt of
the aforesaid denial; pursuant to 28 U.S.C. §2401(b).

4. The United States of America is a defendant in this
action.

5. This Court has exclusive subject matter jurisdiction over
civil actions on claims against the United States of America for,
inter alia, money damages for injury or loss of property, or
personal injury or death caused by the negligent or wrongful act or

omission of any employee of the Government while acting within the scope of his/her office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omissions occurred pursuant to 28 U.S.C. § 1346(b)(1).

6. Venue is proper in the United States District Court of New Jersey pursuant to 28 U.S.C. § 1346(b), insofar as the accident occurred within this District and defendant is subject to personal jurisdiction.

FIRST COUNT

1. On or about November 16, 2016, plaintiff, ARTHUR D. CUMMINS was a bicyclist lawfully in the vicinity northbound on Green Avenue and its intersection with Hillside Avenue, Madison, New Jersey.

2. At the time and place aforesaid, Michael DeCicco was the operator of a motor vehicle owned by the United States of America.

3. At all relevant times, Michael DeCicco was employed by the United States Post Office and/or the United States of America.

4. At the time and place aforesaid, Michael DeCicco operated his motor vehicle in a careless, negligent and reckless manner and caused same to collide with plaintiff.

5. As a direct and proximate result of the aforesaid carelessness, negligence and recklessness of Michael DeCicco, the plaintiff, ARTHUR D. CUMMINGS, was violently tossed about, sustained injuries causing permanent disability, permanent

significant disfigurement, permanent loss of bodily function, lost time from work and suffer an impairment in earning capacity, has incurred or in the future will incur expenses for the treatment of said injuries in excess of the applicable threshold, has been disabled and will in the future be disabled and not able to perform her usual functions, has been caused and in the future will be caused great pain and suffering, has been deprived and in the future will be deprived of his right to the enjoyment of life.

WHEREFORE plaintiff, ARTHUR D. CUMMINGS, hereby demands damages against the defendants together with costs.

SECOND COUNT

1. Plaintiffs repeat each and every allegation of the prior Counts as though set forth herein at length.

2. At all times hereinbefore and hereinafter mentioned, the plaintiff DONNA CUMMINGS, was and still is the spouse of the injured plaintiff ARTHUR D. CUMMINGS, and as such is entitled to her services, support, society, companionship, love, solace and more.

3. By reason of the injuries sustained by the plaintiff, ARTHUR D. CUMMINGS, and as a result of the negligence, recklessness and carelessness of the defendants aforesaid, the plaintiff DONNA CUMMINGS, has been and will in the future be deprived of her support, society, companionship, love, solace, consortium, services and more and has been compelled to and did expend various sums of money and sustained loss of various income as a result of the aforesaid negligence of the defendants.

WHEREFORE, plaintiffs demand judgment for damages against the defendants, together with interest and costs of suit.

JURY DEMAND

Plaintiffs hereby demand a trial by jury as to all issues.

DESIGNATION OF TRIAL ATTORNEY

Pursuant to R. 4:25-4, DAVID M. FRIED, ESQ. is hereby designated as trial attorney.

CERTIFICATION

I hereby certify that this matter is not the subject of any other action pending in any Court or a pending Arbitration proceeding, nor is any other action or Arbitration contemplated.

All parties known to plaintiff who should have been joined in this action, have been joined.

BLUME, FORTE, FRIED
ZERRES & MOLINARI, P.C.
Attorneys for Plaintiffs,

BY: 

DAVID M. FRIED

Dated: 11/21/17